IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

W.P.Nos.15627, 15628, 15629, 15630, 15631 OF 2003 AND 1564, 1598, 1600 AND 1616 OF 2004

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WRIT PETITION NO : 15627 of 2003

Between:

M/s. Sri Uma Someswara Rice Mill, Contractor Sri Bonadada Siva Chinranjeev Rao & Sons. rep by its Managing Partner Bondada kumara venkata Ratnam, Gunupudi Bhimavaram- 534 201, Bhimavaram mandal West Godavari District

..... PETITIONER

AND

1 The Secretary, Agricultural Market Committee, Bhimavaram

West Godavari District
2 The Director of Marketing Government of Andhra Pradesh

BRKR Buildings, Opp:Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring that market fees cannot be levied and collected by the 1st

Respondent market Committee on the transaction of purchases or sales of rice when the corresponding paddy from which it was produced has already been subject to levy of market fees by the 1st Respondent Market Committee and consequently to declare that the action of the 1st respondent market committee in issuing the proceedings bearing no. MFLP No. 5/SR- II/2002/2003 dated 28-06-2003, whereby it is sought to levy the market fees on rice for the Year 2002-2003 as illegal, arbitary erroneous, unconstitutional without jurisdiction and contrary to the provisions of the A.P. (Agricultural produce and livestock) Markets Act 1966 and the rules made there under and violative of Articles 14 and 301 of the Constitution of India

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WRIT PETITION NO : 15628 of 2003

Between:

M/s. Sri Kali Prasada Babu Rice Traders, rep by Sole Proprietor, Tummalapalli Naga Siva Venkata Satya krishna Murthy Gunupudi, Bhimavaram - 534201, Bhimavaram Mandal W.G. Dist Andhra Pradesh

..... PETITIONER

AND

1 The Secretary Agricultural Market Committee, Bhimavaram,

West Godavari District

2 The Director of Marketing Government of Andhra Pradesh,

BRKR Buildings, OPP, Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring that market fees cannot be levied and collected by the 1st Respondent market Committee on the transaction of purchases or sales of rice when the corresponding paddy from which it was produced has already been subject to levy of market fees by the 1st Respondent Market Committee and consequently to declare that the action of the 1st respondent market committee in issuing the proceedings bearing no. MFPB No. 10/SR- IV/2003 dated 26-06-2003, whereby it is sought to levy the market fees on rice for the Year 2002-2003 as illegal, arbitrary erroneous, unconstitutional without jurisdiction and contrary to the provisions of the A.P. (Agriculutral produce and livestock) Markets Act 1966 and the rules made there under and violative of Articles 14 and 301 of the Constitution of India.

WRIT PETITION NO : 15629 of 2003

Between:

M/s. Sri Sitarama Traders, A partnership Firm rep by its Managing partner: K.V. Suryanarayana, Srunga Vruksaham- 534 243 Palakoderu Mandal, West Godavari District, A.P.,

..... PETITIONER

AND

1 The Secretary Agricultural Market Committee, Bhimavaram,

West Godavari District.
2 The Director ofrmarketing, Government of Andhra Pradesh

BRKR Buildings, Opp: Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring that market fees cannot be levied and collected by the 1st Respondent market Committee on the transaction of purchases or sales of rice when the corresponding paddy from which it was produced has already been subject to levy of market fees by the 1st Respondent Market Committee and consequently to declare that the action of the 1st respondent market committee in issuing the proceedings bearing no. MF No. 16/SR- I/2003 dated 23-07-2003, whereby it is sought to levy the market fees on rice for the Year 2003-2004 as illegal, arbitrary erroneous, unconstitutional without jurisdiction and contrary to the provisions of the A.P. (Agricultural produce and livestock) Markets Act 1966 and the rules made there under and violative of Articles 14 and 301 of the Constitution of India

WRIT PETITION NO : 15630 of 2003

Between:

M/s. Sri Satyanarayana Rice Mill., Proprietors; Kalidindi Neeladri Raju &Co., rep by its partner; Kalidindi Rayapa Raju, Konithivada,

Veeravasaram Mandal West Godavari District, A.p.,

..... PETITIONER

AND

1 The Secretary Agricultural Market Committee, Palakol
West Godavari District
2 The Director of Marketing, Government of Andhra Pradesh

BRKR Builidngs, Opp: Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring that market fees cannot be levied and collected by the 1st Respondent market Committee on the transaction of purchases or sales of rice when the corresponding paddy from which it was produced has already been subject to levy of market fees by the 1st Respondent Market Committee and consequently to declare that the action of the 1st respondent market committee in issuing the proceedings bearing no. MFLC No. 19/W/2003 dated 30-06-2003, whereby it is sought to levy the market fees on rice for the Year 2002-2003 as illegal, arbitrary erroneous, unconstitutional without jurisdiction and contrary to the provisions of the A.P. (Agricultural produce and livestock) Markets Act 1966 and the rules made there under and violative of Articles 14 and 301 of the Constitution of India.

WRIT PETITION NO : 15631 of 2003

Between:

M/s. Satya Sai Durga Traders, Contractors: Sri Venkata Ramalingeswara Rice Mill, rep by its Managing Partner, Manepalli Badari Narayana Taderu
Road Bhimavaram-534 203, Bhimavaram Mandal West Godavari District A.P.,

..... PETITIONER

AND

1 The Secretary, Agricultural Market Committee, Bhimavaram

West Godavari District
2 The Director of Marketing, Government of Andhra Pradesh,

BRKR buildings, Opp Secretariat, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Mandamus declaring that market fees cannot be levied and collected by the 1st Respondent market Committee on the transaction of purchases or sales of rice when the corresponding paddy from which it was produced has already been subject to levy of market fees by the 1st Respondent Market Committee and consequently to declare that the action of the 1st respondent market committee in issuing the proceedings bearing no. MFPB No. 17/SR- IV/2003 dated 26-06-2003, whereby it is sought to levy the market fees on rice for the Year 2002-2003 as illegal, arbitrary erroneous, unconstitutional without jurisdiction and contrary to the provisions of the A.P. (Agricultural produce and livestock) Markets Act 1966 and the rules made there under and violative of Articles 14 and 301 of the Constitution of India

WRIT PETITION NO : 1564 of 2004

Between:

M/s. Asvini Fisheries Limited, Rep. by its Manager, A. Janardhan,
R.S. No. 626/1, Dirsumarru Road, Yanamadurru Post, Bhimavaram - 534 239, West Godavari District, Andhra Pradesh.

..... PETITIONER

AND

The Secretary, Agricultural Market Committee, Bhimavaram, West Godavari District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the proceedings bearing R.C. No. 7/B2/2002, dated 12.01.2004 issued by the Respondent Market Committee, whereby the original Assessment proceedings bearing No. 33/99-2000/SR-1, dated 14-11-2000 relating to the assessment year 1999-2000 have been reviewed/reassessed and the market fees has been re-determined on the alleged escaped purchase turnover purportedly under Section 12-B (5) of the A.P. Agricultural (Produce and Livestock) Markets Act, 1966 is illegal, arbitrary, erroneous, without jurisdiction, ultra vires and contrary to the provisions of the A.P. (Agricultural Produce and Livestock) Markets Act, 196 and the rules made there under, and consequently to direct the Respondent not to claim the market fees that was re-assessed under the impugned re-Assessment proceedings from the petitioner

WRIT PETITION NO : 1598 of 2004

Between:

R.B.T.Exports, Chennai, rep.by its partner: Talluri Vijaya Babu, S/o.Bhakta Vatsala Rao, R/o.Chennai, No.5, Sengundhar
Street, Shenoy Nagar, Chennai-600 030.

..... PETITIONER

AND

The Secretary, Agricultural market Committee, Bhimavaram West Godavari District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring that the proceedings bearing R.C.No. 7/B2/2002, dated 12-

01-2004 issued by the Respondent Market Committee, whereby the original Assessment proceedings bearing SR/SVRM/A/52/95-96 dated 25-9-1999 relating to the assessment year 1995-1996 have been reassessed and the market fee has been re-determined on the alleged escaped purchase turnover purportedly under Section 12-B(5) of the A.P. Agricultural (Produce and Livestock) Market Act, 1966 is illegal, arbitrary, erroneous, without jurisdiction, ultra vires and contrary to the provisions of the A.P.(Agricultural Produce and Livestock) Market Act, 1996 and the rules made there under, and consequently to direct the respondent not to claim the market fees and was re-assessed under the impugned re-assessment proceedings from the petitioner.

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WRIT PETITION NO : 1600 of 2004

Between:

M/s. Asvini Fisheries Limited rep., by its Manager, A. Janardhanan, R.S.No.626/1, Dirsumarru Road, Yanamadurru Post, Bhimavaram-534239, W.G.District.

..... PETITIONER

AND

The Secretary, Agricultural Market Committee, Bhimavaram, W.G.District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the proceedings bearing RC.No.7/B2/2002 dated 12.1.2004 issued by the respondent Market Committee, whereby the original Assessment proceedings bearing no. 33/97-98/SR-1 dated 14.11.2000 relating to the assessment year 1997-1998 have been reviewed/reassessed and the market fees has been re-determined on the alleged escaped purchase turnover purportedly under Section 12-B [5] of the A.P.Agricultural [Produce and Livestock] Markets Act, 1966 is illegal, arbitrary, erroneous, without jurisdiction, ultra vires and contrary to the provisions of the A.P. [Agricultural Produce and Live stock] Markets Act, 1966 and the rules made there under and consequently to direct the respondent not to claim the market fees that was re-assessed under the impugned re-Assessment proceedings from the petitioner.

WRIT PETITION NO : 1616 of 2004

Between:

M/s Asvini Fisheries Limited, Rep.by its Manager, A.Janardhan, R.S.No.626/1, Dirsumarru Road, Yanamadurru Post, Bhimavaram -534 239,West Godavari District, Andhra Pradesh.

..... PETITIONER

AND

The Secretary, Agricultural Market Committee, Bhimavaram, West Godavari District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring that the proceedings bearing R.C.No.7/B2/2002 dated 12-01-2004 issued by the Respondent Market Committee, whereby the original Assessment proceedings bearing No.33/98-99/SR-1 dated 14-11-2000 relating to the assessment year 1998-1999 have been reviewed / reassessed and the market fees has been re-determined on the alleged escaped purchase turnover purportedly under Section 12-B (5) of the A.P. Agricultural (Produce and Livestock) Markets Act, 1966, is illegal, arbitrary, erroneous, without jurisdiction, ultra vires and contrary to the provisions of the A.P.(Agricultural Produce and Livestock) Markets Act, 1966 and the rules made there under, and consequently to direct the Respondent not to claim the market fees that was re-assessed under the impugned re-Assessment proceedings from the petitioner

Counsel for the Petitioners in all the petitions:

MR.Y.V.RAVI PRASAD

Counsel for Respondent No.2 in W.P.Nos.15627, 15628, 15629, 15630 and 15631 of 2003:

Government Pleader for Agriculture

Counsel for Respondent No.1 in W.P.Nos.15627, 15628, 15629, 15630 and 15631 of 2003

AND

Counsel for the sole respondent in W.P.Nos.1564, 1598, 1600 and 1616 of 2004:

Mr Posani Venkateswarlu, Standing Counsel f o r Agricultural Market Committee

The Court made the following

C O M M O N O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties.

The order impugned in these writ petitions is appealable order under Section 12-E of the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (for short "the Act"). Questions of fact are also involved in these petitions. As the petitioners contend that they had paid the fee on paddy and a fresh demand could not be raised on rice, these questions can be better gone into by the appellate authority. There are sufficient remedies available to the petitioners under the Act. Even if they lose the appeal under Section 12-E of the Act also, they have another right to approach the High Court by way of an appeal under Section 12-G of the Act. For these reasons, we find that this Court would not be able to effectively decide the controversy between the parties and in view of the fact that there is an efficacious remedy available to the petitioners, we dismiss these writ petitions. However, the petitioners have been in this Court for a long time, therefore, we direct that no questions shall be raised with regard to limitation, if the appeal is filed within a period of four weeks from today.

For a period of four weeks from today, the order of stay granted by this Court while entertaining the writ petitions, shall also remain in force. No order as to costs.

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(BILAL NAZKI, J)

11th August, 2004.

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(S.ANANDA REDDY, J)

Note:Furnish C.C in one week

B/o

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To

1 The Secretary, Agricultural Market Committee, Bhimavaram

West Godavari District

2 The Director of Marketing Government of Andhra Pradesh

BRKR Buildings, Opp:Secretariat, Hyderabad.

3 Two C.Cs to the Government Pleader for Agriculture,

High Court Buildings, A.P., Hyderabad (OUT)

4 The Secretary, Agricultural Market Committee, Palakol, West

Godavari District.

5 Two C.D copies